

REMARKS

Claims 37-55 are currently pending in the application. Claim 44 has been amended to depend from claim 37. Claim 50 has been amended to add a space and claim 37 has been amended to address issues raised in the Office Action. Claims 43 and 45-46 are withdrawn. No new matter is added.

Rejection of Claim 37 Under 35 U.S.C. § 112, Second Paragraph

Claim 37 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner states that there is insufficient antecedent basis for “the complex.”

Claim 37, as amended, obviates this ground of rejection. Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection of Claim 37 Under 35 U.S.C. § 112, First Paragraph

Claim 37 and claims 38-42, 44 and 47-55, which depend from claim 37 have been rejected under 35 U.S.C. §112, first paragraph. Although the Examiner acknowledges that the specification is enabling for treating septic shock syndrome in a mammal comprising administering to the mammal the antibody having a sequence represented by SEQ ID NO: 4, it is the examiner’s position that the specification does not enable any person skilled in the art to which it pertains or with which it is most nearly connected to use the invention commensurate in scope with these claims.

Applicants have amended claim 37, from which claims 38-42, 44 and 47-55 depend, so that it no longer includes preventing septic shock syndrome. Accordingly, this ground of rejection has been obviated by amendment.

Although the Examiner acknowledges that the specification is enabled for treating septic shock syndrome in a mammal comprising administering to the mammal the antibody having a sequence represented by SEQ ID NO: 4, the Examiner additionally contends that the

specification does not provide enablement for the treatment of septic shock syndrome with antibodies other than the antibody having a sequence represented by SEQ ID NO: 4.

However, the instant specification specifically describes antibodies other than the H36.D2.B7 antibody represented by SEQ ID NO: 4. For example, the specification describes ways to modify the light chain and/or heavy chain variable regions of H36.D2.B7. Based on the same specification, the U.S. Patent and Trademark allowed claims to “an antibody that binds native human tissue factor to form a complex whereby factor X binding to the complex is inhibited.” (See claim 15 of U.S. Patent No. 6,555,319, which is attached hereto).

In addition to providing adequate written description and enablement for antibodies that bind human tissue factor to form a complex whereby factor X binding to the complex is inhibited, the instant specification also describes in example 9, a septic shock model in rhesus monkeys that can be used to determine if various antibodies can effectively treat septic shock syndrome in a mammal.

Because the instant specification provides a sufficient teaching to enable one of skill in the art to make a variety of antibodies that bind native human tissue factor, to form a complex, whereby factor X binding to the complex is inhibited, and wherein factor VII or VIIa binding to tissue factor is not inhibited, and to test the antibodies for anti-sepsis activity, applicants request that this ground of rejection be withdrawn.

Rejection of Claim 37-42, 44, 47-55 Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 37-42, 44 and 47-55 under 35 U.S.C. § 103(a) as being obvious over Wong et al., (WO 98/40408), which is cited as teaching “antibodies that bind native human tissue factor and do not substantially bind non-native tissue factor, wherein the Factor X or Factor IX binding to the complex...”, in view of Taylor (Crit Care Med. 2001, 29 (7 Suppl):S78-89), which is cited as teaching “that treatment with anti TF antibody in a primate model for septic shock syndrome attenuated response to otherwise lethal *E. coli* injection.

In particular, the Examiner contends that “[I]t would have been obvious to the person of ordinary skill in the art at the time the invention was made to modify the teachings of Wong et al.

by treating septic shock syndrome, as taught in Taylor because of the success Taylor reported in the treatment of septic shock.”

The primary reference cited by the examiner, Wong et al., (WO 98/40408), was published on September 17, 1998, which is after the filing date of U.S. Patent No. 5,986,065 (March 10, 1997), to which the instant patent application claims priority. U.S. Patent No. 5,986,065 specifically supports the instant claimed method (See e.g., Col. 12, lines 34-35).

Accordingly, applicants request that this ground of rejection be withdrawn.

Provisional Double Patenting

Claims 37, 38, 40, 42, 47, 48, 49, 50 and 51 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 32, 34, 35, 38, 46, 47 and 48 of co-pending application no. 10/310,113; claims 37, 38, 39, 40, 41, 42, 43, 44, 45, 48, 53, 54, 55 and 57 of co-pending application no. 10/618,338; claims 25, 26, 27 and 33 of copending application no. 11/087,528 ; claim 66 of co-pending application no. 11/122,622, claims 1-4 and 10-12 of co-pending application no. 11/311,702 and claims 21, 23, 24, 29 and 30 of copending application no. 11/311,702 all in view of Taylor.


Upon indication of allowable subject matter, Applicants agree to file a terminal disclaimer with respect to the above-listed co-pending patent applications.

CONCLUSION

Early and favorable consideration of the application is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at (617)-832-1738. Applicants do not believe that any fees are due, however, if any fees are due, the Commissioner is hereby authorized to credit any overpayment or charge any deficiencies to **Deposit Account No. 06-1448, TNA-005.05.**

Respectfully submitted,
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